

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



June 4, 2004

ALL COUNTY INFORMATION NOTICE NO. I-36-04

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY REFUGEE COORDINATORS**REASON FOR THIS TRANSMITTAL**

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☒ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: CUBAN/HAITIAN ENTRANT PROGRAM AND ENTRANT CASH ASSISTANCE

REFERENCE: MANUAL OF POLICIES AND PROCEDURES SECTION 69-300

This All County Information Notice is to clarify the eligibility requirements for the Cuban/Haitian Entrant Program (CHEP) and Entrant Cash Assistance (ECA), which were established to provide Cuban/Haitian Entrants with cash assistance and social services.

Counties should follow the program requirements outlined in Manual of Policies and Procedures (MPP) 69-300. Any national of Cuba or Haiti as defined below is eligible to participate in CHEP and/or receive ECA. Cubans or Haitians who are the subject of a final, nonappealable, and legally enforceable order of removal, deportation or exclusion are not eligible for CHEP services or ECA. Eligible participants include:

- Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided;
- A national of Cuba or Haiti who was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act (INA);
- A national of Cuba or Haiti who is the subject of removal, deportation or exclusion proceedings under the INA and with respect to whom a final, nonappealable, and legally enforceable order of removal, deportation or exclusion has not been entered; or

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- A national of Cuba or Haiti who has an application for asylum pending with the United States Citizenship and Immigration Service (formerly the Immigration and Naturalization Service).

For your information, attached are federal Office of Refugee Resettlement State Letters #00-17 (dated September 14, 2000) and #01-22 (dated August 15, 2001) that provide information on what documentation is acceptable to verify a Cuban/Haitian Entrant's status.

It is important to note that ECA is only allowed for the first eight months from the time a Cuban/Haitian Entrant's status is established. It is therefore imperative that eligibility determinations be made timely to ensure services can be provided as quickly as possible.

Should you have any questions regarding CHEP or ECA, please contact Ms. Thuan Nguyen, Chief of the Refugee Programs Bureau at (916) 654-4356, or Ms. Camille Ancona, Policy Analyst at (916) 653-7785.

Sincerely,

Original signed by
Venus Garth
On June 4, 2004

VENUS GARTH, Chief
Child Care and Refugee Programs Branch

Attachments

c: CWDA



Office of Refugee Resettlement

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State Letter SL00-17

TO: STATE REFUGEE COORDINATORS
NATIONAL VOLUNTARY AGENCIES
OTHER INTERESTED PARTIES

FROM: Lavinia Limón, Director
Office of Refugee Resettlement

SUBJECT: Status and Documentation Requirements for The Federal Refugee Resettlement Program

Purpose of this Letter

This State Letter outlines: (1) the statuses that confer eligibility for Refugee Resettlement Program benefits; (2) the documentation that is needed to prove an individual has one of those statuses; and (3) a suggested process for making eligibility determinations. Along with confirming status, eligibility determinations must include confirmation of identity, the date that an individual initially became eligible for benefits ("entry" date) and, in cases involving Cuban and Haitian entrants, nationality. More than one piece of documentation may be needed to make all of these determinations.

However, this State Letter will not discuss documentation that confirms identity, nationality or "entry" dates. This State Letter only discusses status documentation.

Process

The Office of Refugee Resettlement (ORR) asks agencies to use the following process when determining eligibility for Refugee Resettlement Program benefits.

- (1) Eligibility workers should ask the applicant for a **written declaration**, under penalty of perjury, that he or she has an immigration status that makes him or her eligible for Refugee Resettlement Program benefits.
- (2) Eligibility workers should review **documentation** of immigration status as outlined in charts included with this State Letter.
- (3) If status is supported by documents, eligibility workers may conclude that the applicant has a qualified status and continue with **other eligibility verifications**, such as verification of "entry date" and specific program requirements.
- (4) If unable to confirm status after checking documentation, which suggests eligibility, agencies should provide benefits while using **other**

methods to verify status. Agencies, if connected with the Immigration and Naturalization Service (INS) Systematic Alien Verification for Entitlements (SAVE) system should follow standard SAVE procedures. If not connected to the SAVE system, agencies may submit INS Form G-845 to the local INS office. In some cases, which are mentioned below, agencies may call the Executive Office for Immigration Review (EOIR) case status line.

(5) If an agency follows the above procedures but remains uncertain about an applicant's status, please call AnnaMarie Bena, **ORR Immigration Specialist**, at (202) 260-5186 or send an email to abena@acf.dhhs.gov.

Limitations

ORR has attempted to gather a comprehensive list of documents that shows statuses conferring eligibility for ORR programs. However, the INS produces a variety of documents, some of which may be useful in a status determination but which, for a number of reasons, may not have been included in this State Letter. Moreover, due to the complexity of certain categorical definitions, documentation alone may not definitively confirm eligibility in some cases. Noting these difficulties, ORR asks agencies to follow the process suggested above. If an agency has concerns or questions at any point during the process, please contact Anna Marie Bena at (202) 260-5186 or abena@acf.dhhs.gov.

Proposed Rule

In August 1998, the Attorney General published a proposed rule, **Verification of Eligibility for Public Benefits**, 63 FR 41662, ("Proposed Rule"), with a 60-day comment period. The Proposed Rule is not in force. However, the Attorney General is expected to issue a final rule concerning verification issues. At that time, ORR will reevaluate the guidance in this letter to ensure that ORR procedures are consistent with the final verification rules. Agencies should follow the guidance in this State Letter until a final rule is issued by the Attorney General.

STATUS REQUIREMENTS

Individuals with the following statuses are eligible for Refugee Resettlement Program benefits (45 CFR §400.43(a)(1)-(6)):

1. Individuals paroled as **refugees or asylees** under §212(d)(5) of the Immigration and Nationality Act (INA)
2. Refugees admitted under §207 of the INA
3. Asylees whose status was granted under §208 of the INA
4. Cuban and Haitian entrants, in accordance with the requirements in 45 CFR §401.2
 - a. Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided
 - b. A national of Cuba or Haiti who was paroled into the United States and has not acquired any other status under the INA and with respect to whom a final, nonappealable, and legally enforceable order of removal, deportation or exclusion has not been entered
 - c. A national of Cuba or Haiti who is the subject of removal, deportation or exclusion proceedings under the INA and with

respect to whom a final, nonappealable, and legally enforceable order of removal, deportation or exclusion has not been entered

- d. A national of Cuba or Haiti who has an application for asylum pending with the INS and with respect to whom a final, nonappealable, and legally enforceable order of removal, deportation or exclusion has not been entered
1. Certain Amerasians from Vietnam who are admitted to the U.S. as immigrants pursuant to §584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in §101(e) of Public Law 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Public Law 100-461 as amended)
2. Lawful permanent residents, provided the individuals previously held one of the statuses identified above (Note that this does not refer to Amerasians who are admitted as lawful permanent residents. See #5 above.)

DOCUMENTATION REQUIREMENTS

In order to access Refugee Resettlement program benefits, individuals must provide acceptable documentation of one of the statuses listed above. The following lists include documents that provide proof of these statuses. These documents may or may not provide proof of identity, nationality or "entry" date.

Chart #1

1. **Acceptable documents for individuals paroled as refugees or asylees under §212(d)(5) of the INA*:**

Documents/Codes	Comments
I-94 Arrival/departure card noting that the individual has been paroled as a refugee or asylee under §212(d)(5)	To be eligible under this provision, the I-94 must note that the individual is a refugee or asylee .
I-766 Employment Authorization Document with the code A04	
I-688B Employment Authorization Document with the provision of law 274a.12(a)(4)	This is an older version of the employment authorization document but it is still in use.

***Note:** This status rarely has been granted since 1980. **It is unlikely that eligibility workers will encounter this type of documentation.** Eligibility workers may encounter other individuals, not refugees or asylees, who have been paroled under §212(d)(5). The documentation of other parolees under §212(d)(5) may include language, such as "humanitarian" or "public interest parole." An example of a population with this documentation would be parolees who receive benefits under the "Lautenberg Amendment," a special provision that allows nationals from the former Soviet Union, Vietnam, Laos or Cambodia to adjust their status after having resided in the

United States for one year. These types of parolees under §212(d)(5) are NOT eligible for ORR benefits. Only individuals who are listed as **refugees or asylees** are eligible under this provision. However, if the individual is a national of Cuba or Haiti, he or she may be eligible under the provisions concerning Cuban and Haitian entrants. (See documentation lists below for information on Cuban and Haitian entrants.)

Chart #2

2. Acceptable documents for refugees admitted under §207 of the INA:

Documents/Codes	Comments
I-94 Arrival/departure card noting that the individual has been admitted under §207 of the INA	Notations may include references to employment authorization, indefinite status, and the requirement to obtain permission before leaving the United States.
RE-1 admission code on the I-94	Principal Refugee
RE-2 admission code on the I-94	Spouse of principal refugee
RE-3 admission code on the I-94	Child of principal refugee
RE-4 admission code on the I-94	Collateral relatives of principal refugee
RE-5 admission code on the I-94	Certain Haitian refugees
I-766 Employment Authorization Document with the code A03	
I-688B Employment Authorization Document with the provision of law 274a.12(a)(3)	This is an older version of the employment authorization document but it is still in use.
INS Form I-571	United States Refugee Travel Document*
Visa 93 (or V-93) on the I-94 Arrival/departure card	May be accompanied by the words "section 207"; Individual is the spouse or minor child of a previously admitted refugee.

***Note:** The INS Form I-571, which is a United States Refugee Travel Document, does not distinguish between refugees and asylees. An individual with a United States Refugee Travel Document may be a refugee or an asylee.

Chart #3

3. Acceptable documents for asylees whose status was granted under §208 of the INA:

Documents/Codes	Comments
I-94 Arrival/departure card referencing §208 of the INA	Notations may include references to employment authorization, indefinite status, and the requirement to obtain permission before leaving the United States.
AS-1 admission code on the I-94	Approved asylee principal
AS-2 admission code on the I-94	Approved spouse of an asylee principal
AS-3 admission code on the I-94	Approved child of an asylee principal
INS Form I-571	United States Refugee Travel Document*
I-766 Employment Authorization Document with the code A05	
I-688B Employment Authorization Document with the provision of law 274a.12(a)(5)	This is an older version of the employment authorization document but it is still in use.
Order of an Immigration Judge Granting Asylum under §208 of the INA	An Order of an Immigration Judge will serve as proof of asylee status if the INS has waived the right to appeal the case. See Note 2 below for information about cases where the INS reserves the right to appeal.**
Asylum Approval Letter from an INS Asylum Office	Letter will note that the individual has been granted asylum pursuant to §208 of the INA and may include information concerning refugee and asylee relative petition, work authorization and the refugee travel document.
Written decision from the Board of Immigration Appeals (BIA)	
I-730 Approval Letter	The I-730 Approval Letter may be used as proof of asylee status for derivatives.
Visa 92 (or V-92) on the I-94 Arrival/departure card	May be accompanied by the words "section 208"; Individual is the spouse or minor child of a previously granted asylee.

***Note 1:** The INS Form I-571, which is a United States Refugee Travel Document, does not distinguish between refugees and asylees. An individual with a United States Refugee Travel Document may be a refugee or an asylee.

****Note 2:** If the INS has reserved its right to appeal, an Immigration Judge Order will not serve, on its own, as proof of asylee status. If an asylee brings an Immigration Judge Order that shows the INS has reserved its right to appeal, eligibility workers must wait 30 days from the date on the Immigration Judge Order. On or after the 31st day, the eligibility worker will need to call the Executive Office for Immigration Review (EOIR) case status line at (800) 898-7180 to find out whether the INS has appealed the case. (The EOIR reports that it may take up to 5 days after the appeal deadline for the information to be relayed to the case status line.) If the INS has appealed the case, the individual is not yet an asylee and is not eligible for benefits. If the INS has not appealed the case and 30 days have passed since the date on the Immigration Judge Order, the individual is an asylee and is eligible for ORR assistance and services.

Chart #4a

4. **Acceptable documents for Cuban and Haitian entrants, in accordance with the requirements in 45 CFR §401.2:**
- a. **Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status* subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided**

Documents/Codes	Comments
An I-94 Arrival/departure card with a stamp showing parole at any time as a "Cuban/Haitian Entrant (Status Pending)"	I-94 may refer to §212(d)(5).
CH6 adjustment code on the I-551	Even after a Cuban/Haitian Entrant (Status Pending) becomes a permanent resident, he/she technically retains the status Cuban/Haitian Entrant (Status Pending).
An I-94 Arrival/departure card with a stamp showing parole into the U.S. on or after April 21, 1980	I-94 may refer to §212(d)(5).
A Cuban or Haitian passport with a §212(d)(5) stamp dated after October 10, 1980.	

***Note:** ORR is not interpreting the phrase, "any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti" to refer to lawful permanent residence obtained under the Nicaraguan Adjustment and Central American Relief Act (NACARA) or the Haitian Refugee Immigration Fairness Act (HRIFA). Although NACARA and HRIFA offer a special opportunity for nationals of Cuba and Haiti, the **status** conferred by these laws, **lawful permanent residence**, is not a "special status." Thus, if the person did not qualify as a Cuban and Haitian entrant, adjustment of status, regardless of the legal basis for the adjustment, does not make the person a Cuban and Haitian entrant.

Chart #4b

- a. **A national of Cuba or Haiti who was paroled into the United States and has not acquired any other status under the INA and with respect to whom a final, nonappealable, and legally enforceable order of removal, deportation or exclusion* has not been entered**

Documents/Codes	Comments
An I-94 Arrival/departure card showing parole into the United States	I-94 may refer to §212(d)(5), humanitarian or public interest parole.**
I-766 Employment Authorization Document with the code A04	
I-766 Employment Authorization Document with the code C11	
I-688B Employment Authorization Document with the provision of law 274a.12(a)(4)***	This is an older version of the employment authorization document but it is still in use.
I-688B Employment Authorization Document with the provision of law 274a.12(c)(11)***	This is an older version of the employment authorization document but it is still in use.

***Note 1:** The question of whether there is a final, nonappealable, legally enforceable order of removal, deportation or exclusion is essentially a legal determination that cannot simply be made by reviewing any of the listed documents. Moreover, it is not a decision that can be easily made by eligibility workers in the regular course of eligibility determinations. ORR suggests that eligibility workers require a written declaration, under penalty of perjury, that the individual has a status that makes him/her eligible for ORR programs and attempt to use other methods to uncover this information, such as calling the EOIR case status line at (800) 898-7180, submitting Form G-845 to the local INS office, asking the applicant for more information or, if participating, accessing the INS SAVE system. Note that these methods may not be definitive. If an applicant appears eligible from the available information, the agency should provide benefits while conducting further investigation. If, after reviewing documents and attempting to determine whether there is a final, nonappealable, legally enforceable order of removal, deportation or exclusion, an eligibility worker remains uncertain about an applicant's eligibility, please call Anna Marie Bena at (202) 260-5186.

****Note 2:** As treatment of Cuban and Haitian entrants has developed, INS officials, on occasion, may have used notations on the I-94s of Cuban and Haitian entrants that are not listed above. Eligibility workers may see various notations that convey parole. For example, eligibility workers, in the past, may have seen the notation, "EWI," which technically stands for "Entered Without Inspection" but was being used for individuals who were paroled. Please call Anna Marie Bena at (202) 260-5186 if you encounter unusual notations or if you are uncertain of the relevance of a particular notation.

*****Note 3:** If an individual provides an I-688B Employment Authorization Document, which does not provide information about

nationality, eligibility workers must request other documentation to confirm that the individual is a Cuban or Haitian national.

Chart #4c

- b. **A national of Cuba or Haiti who is the subject of removal, deportation or exclusion proceedings* under the INA and with respect to whom a final, nonappealable, and legally enforceable order of removal, deportation or exclusion** has not been entered**

Documents/Codes	Comments
INS Form I-221	Order to Show Cause and Notice of Hearing
INS Form I-862	Notice to Appear
INS Form I-220A	Order of Release on Recognizance
INS Form I-122	Notice to Applicant Detained for a Hearing Before an Immigration Judge
INS Form I-221S	Order to Show Cause, Notice of Hearing and Warrant for Arrest
Copy of INS Form I-589 date stamped by the Executive Office for Immigration Review (EOIR)	Application for Asylum and Withholding of Removal; Individual is subject of removal, deportation or exclusion proceedings.
Copy of INS Form I-485 date stamped by EOIR	Application to Register Permanent Residence or to Adjust Status; Individual is subject of removal, exclusion or deportation proceedings.
EOIR-26	Notice of Appeal, date stamped by the Office of the Immigration Judge
I-766 Employment Authorization Document with the code C10	Application for suspension of deportation/cancellation of removal submitted
I-688B Employment Authorization Document with the provision of law 274a.12(c)(10)***	Application for suspension of deportation/cancellation of removal submitted
Other applications for relief that have been date stamped by EOIR	
Other documentation pertaining to an applicant's removal, exclusion or deportation proceedings	Example: a notice of a hearing date before an Immigration Judge

***Note 1:** Although the above documents show that proceedings have been initiated in a case, they cannot confirm that proceedings are

continuing. In order to confirm that proceedings are continuing, eligibility workers will need to use other methods, such as calling the EOIR case status line at (800) 898-7180, submitting Form G-845 to the local INS office or, if participating, accessing the INS SAVE system. If an eligibility worker cannot determine whether proceedings are ongoing, please call Anna Marie Bena at (202) 260-5186.

****Note 2:** The question of whether there is a final, nonappealable, legally enforceable order of removal, deportation or exclusion is essentially a legal determination that cannot simply be made by reviewing any of the listed documents. Moreover, it is not a decision that can be easily made by eligibility workers in the regular course of eligibility determinations. ORR suggests that eligibility workers require a written declaration, under penalty of perjury, that the individual has a status that makes him/her eligible for ORR programs and attempt to use other methods to uncover this information, such as calling the EOIR case status line at (800) 898-7180, submitting Form G-845 to the local INS office, asking the applicant for more information or, if participating, accessing the INS SAVE system. Note that these methods may not be definitive. If an applicant appears eligible from the available information, the agency should provide benefits while conducting further investigation. If, after reviewing documents and attempting to determine whether there is a final, nonappealable, legally enforceable order of removal, deportation or exclusion, an eligibility worker remains uncertain about an applicant's eligibility, please call Anna Marie Bena at (202) 260-5186.

*****Note 3:** If an individual provides an I-688B Employment Authorization Document, which does not provide information about nationality, eligibility workers must request other documentation to confirm that the individual is a Cuban or Haitian national.

Chart #4d

- c. **A national of Cuba or Haiti who has an application for asylum pending with the Immigration and Naturalization Service and with respect to whom a final, nonappealable, and legally enforceable order of removal, deportation or exclusion* has not been entered**

Documents/Codes	Comments
INS receipt for filing Form I-589	Application for Asylum and Withholding of Removal
I-766 Employment Authorization document with the code C08	
I-688B Employment Authorization Document with the provision of law 274a.12(c)(8)**	This is an older version of the employment authorization document but it is still in use.

***Note 1:** The question of whether there is a final, nonappealable, legally enforceable order of removal, deportation or exclusion is essentially a legal determination that cannot simply be made by reviewing any of the listed documents. Moreover, it is not a decision that can be easily made by eligibility workers in the regular course of eligibility determinations. ORR suggests that eligibility workers require a written declaration, under penalty of perjury, that the individual has a status that makes him/her eligible for ORR programs and attempt to use other methods to uncover this information, such as calling the EOIR case status line at (800) 898-7180, submitting Form G-845 to

the local INS office, asking the applicant for more information or, if participating, accessing the INS SAVE system. Note that these methods may not be definitive. If an applicant appears eligible from the available information, the agency should provide benefits while conducting further investigation. If, after reviewing documents and attempting to determine whether there is a final, nonappealable, legally enforceable order of removal, deportation or exclusion, an eligibility worker remains uncertain about an applicant's eligibility, please call Anna Marie Bena at (202) 260-5186.

****Note 2:** If an individual provides an I-688B Employment Authorization Document, which does not provide information about nationality, eligibility workers must request other documentation to confirm that the individual is a Cuban or Haitian national.

Chart #5

(5) Acceptable documents for certain Amerasians (see definition above):

Documents/Codes	Comments
AM-1 admission code on the I-94	Amerasian born in Vietnam after Jan. 1, 1962 and before Jan. 1, 1976 who was fathered by a U.S. citizen
AM-2 admission code on the I-94	Spouse or child of Amerasian
AM-3 admission code on the I-94	Mother, guardian or next-of-kin of Amerasian
AM-6 adjustment code on Form I-551 Permanent Resident Card (or Resident Alien Card)	Amerasian (see above)
AM-7 adjustment code on Form I-551 Permanent Resident Card (or Resident Alien Card)	Spouse or child of Amerasian
AM-8 adjustment code on Form I-551 Permanent Resident Card (or Resident Alien Card)	Mother, guardian or next-of-kin of Amerasian
Vietnamese Exit Visa with codes AM-1, AM-2 or AM-3	"Laissez Passer"; may have temporary I-551 stamp
Vietnamese passport with codes AM-1, AM-2 or AM-3	May have temporary I-551 stamp
United States passport with codes AM-1, AM-2 or AM-3	

Chart #6

(6) Acceptable documents for lawful permanent residents who previously held one of the above identified statuses (Note that this

does not refer to Amerasians who are admitted as lawful permanent residents. See Chart #5 for all documents pertaining to Amerasians):

Form I-551 Permanent Resident Card (or Resident Alien Card) with the following codes:	Comments
RE6	Adjusted Principal Refugee
RE7	Spouse of RE6
RE8	Child of RE6
RE9	Collateral Relatives of RE6
AS6	Adjusted Principal Asylee
AS7	Spouse of AS6
AS8	Child of AS6
CH6	Adjusted Cuban/Haitian Entrant (Status Pending)
HA6	Adjusted Cuban and Haitian Entrant (Haitian national who had applied for asylum)
HB6	Adjusted Cuban and Haitian Entrant (Haitian national who had been paroled)
GA6	Adjusted Iraqi asylee
GA7	Spouse of GA6
GA8	Child of GA6

Foreign Passport with unexpired, temporary I-551 stamp and the following codes:	Comments
RE6	Adjusted Principal Refugee
RE7	Spouse of RE6
RE8	Child of RE6
RE9	Collateral Relatives of RE6
AS6	Adjusted Principal Asylee
AS7	Spouse of AS6

AS8	Child of AS6
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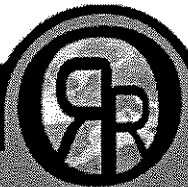
Employment Authorization Documents	Comments
<p>Form I-766 Employment Authorization Document with the code A10</p> <p>(This code only confirms eligibility for Cuban or Haitian nationals.)</p>	Withholding of Deportation or Removal
<p>Form I-688B Employment Authorization Document with the provision of law 274a.12(a)(10)</p> <p>(This code only confirms eligibility for Cuban or Haitian nationals.)</p>	Withholding of Deportation or Removal

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State Letter #01-22

August 15, 2001

TO: STATE REFUGEE COORDINATORS
NATIONAL VOLUNTARY AGENCIES
OTHER INTERESTED PARTIES

FROM: Carmel Clay-Thompson,
Acting Director
Office of Refugee Resettlement

SUBJECT: Clarification of Acceptable Documentation for
Category One "Cuban and Haitian Entrants"

This State Letter reviews the definition of Category One "Cuban and Haitian entrants" and clarifies the acceptable documentation these individuals may present when they apply for ORR-funded benefits and services. The change in the acceptable documentation affecting the greatest number of "Cuban and Haitian entrants" is that ORR now will accept an **expired** I-94 Arrival/Departure Card showing parole on or after April 21, 1980 as proof that a Cuban or Haitian is a Category One "Cuban and Haitian entrant."

Definition

"Cuban and Haitian entrants" are eligible for ORR-funded benefits and services, provided they meet other eligibility criteria, such as income. In determining whether someone is a "Cuban and Haitian entrant," ORR uses the definition in the Refugee Education Assistance Act of 1980 (the Act). The Act outlines four main categories of individuals who are considered "Cuban and Haitian

entrants." This State Letter only concerns individuals in the first category (Category One "Cuban and Haitian entrants"). According to the Act, a Category One "Cuban and Haitian entrant" is:

Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, ***regardless of the status of the individual at the time assistance or services are provided.***

Refugee Education Assistance Act of 1980, as amended, § 501(e)(1), 8 U.S.C.
§ 1522 note (emphasis added).

Under ORR's interpretation of this section of the Act, the following individuals are Category One "Cuban and Haitian entrants":

Any alien who is a national of Cuba or Haiti and, ***regardless of the status of the alien at the time the alien is an applicant for benefits and services:***

(a) has been granted status as a Cuban/Haitian Entrant (Status Pending) on or after April 21, 1980;

or

(b) has been paroled into the United States on or after October 10, 1980, unless the alien was paroled into the United States in the custody of a Federal, State or local law enforcement or prosecutorial authority, for purposes of criminal prosecution in the United States, or solely to testify as a witness in proceedings before a judicial, administrative, or legislative body in the United States.

Noting the language "regardless of the status of the alien at the time the alien is an applicant for benefits and services," ORR does not consider an individual's current immigration status relevant in making an eligibility determination for Category One "Cuban and Haitian entrants." Category One "Cuban and Haitian entrants" must show only that they met the definition at some point.

Once meeting the definition of Category One "Cuban and Haitian entrant" these individuals do not lose the status by attaining another immigration status or by falling out of the immigration status that initially made them Category One "Cuban and Haitian entrants." Even a removal order will not change the Category One "Cuban and Haitian entrant" status, although ORR would not consider a Category One "Cuban and Haitian entrant" to retain that status after actual removal from the United States.

Documentation

The following chart, which lists the acceptable documents for Category One "Cuban and Haitian entrants," was printed in State Letter #00-17. The chart remains current. However, this State Letter clarifies that the **I-94 Arrival/Departure Card** with a stamp showing parole into the U.S. on or after April 21, 1980 **may be expired**. In other words, if, on December 1, 2001, a Cuban national applies for benefits and presents an I-94 Arrival/Departure Card with a stamp showing parole into the U.S. on November 15, 2000 and the card expired on November 15, 2001, the individual remains a Category One "Cuban and Haitian entrant" and the benefit-granting agency may accept the I-94 as proof of that status. **In addition, the other documents that show an individual is a Category One "Cuban and Haitian entrant" may be expired.** As noted above, a Category One "Cuban and Haitian entrant's" current immigration status is irrelevant in making an eligibility determination for ORR-funded benefits. Therefore, it is irrelevant that the documents confirming Category One "Cuban and Haitian entrant" status are expired.

Documents/Codes	Comments
An I-94 Arrival/departure card with a stamp showing parole at any time as a "Cuban/Haitian Entrant (Status Pending)"	I-94 may refer to §212(d) (5). <u>I-94 may be expired.</u>
CH6 adjustment code on the I-551	Even after a Cuban/Haitian Entrant (Status Pending) becomes a permanent resident, he/she technically retains the status

	Cuban/Haitian Entrant (Status Pending). I-551 may be expired.
An I-94 Arrival/departure card with a stamp showing parole into the U.S. on or after April 21, 1980	I-94 may refer to §212(d) (5). I-94 may be expired.
A Cuban or Haitian passport with a §212(d) (5) stamp dated after October 10, 1980.	Passport may be expired.

This clarification of acceptable documentation does not apply to any of the other categories of "Cuban and Haitian entrants." The documentation charts in State Letter #00-17 referring to the other categories of "Cuban and Haitian entrants" remain the same.

If you have questions about any of the information in this State Letter, please call Anna Marie Bena at (202) 260-5186.

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